

are: preformed polymer component(s), liquid monomer component(s) and optionally an initiator component. Each of these components can be a single compound or a mixture of two or more compounds. Based upon the content of the three major components, the weight percent of the polymer components is between about 40% and 95%, preferably between 50% and 80%

(Emphasis added.) The reference also alleges that “copolymers of ethylene and vinyl acetate monomers or polymers” can be used as polymers. See the paragraph bridging columns 7 and 8. Clearly, the reference’s requirement of 40-95% by weight is beyond the scope of claim 1 which recites “3 to 20 percent by weight, with respect to the floor covering’s total weight, of a copolymer of ethylene.”

In contrast to Payn’s disclosure of 40-95% of a polymer component (e.g., copolymers of ethylene), Applicants’ disclosure recites: “[W]ith respect to the total weight of the materials to be processed, 3 to 20 percent by weight of a copolymer of ethylene including at least one comonomer are mixed with the unvulcanized rubber mixtures prior to their processing.” Thus, the composition includes 3 to 20% by weight of a copolymer of ethylene. Consequently, independent claim 1 recites “3 to 20 percent by weight, with respect to the floor covering’s total weight, of a copolymer of ethylene”. This recitation, among others, is not disclosed nor suggested by Payn. Indeed, Payn requires a larger amount of the copolymer than is recited in claim 1. Finally, there is no overlap between applicant’s claimed range and Payn’s disclosure.

Hence, Payn does not disclose or suggest the embodiment of claim 1. For at least these reasons, Applicants respectfully submit that a *prima facie* case of obviousness has not been established. Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of claim 1 over Payn.

Each of claims 2, 3, 5 and 6 depends, either directly or indirectly, from claim 1. Each of claims 2, 3, 5 and 6 is deemed patentable by the virtue of its dependence from claim 1, which as discussed, is patentable over the art of record. For this reason, additional justifications for patentability of each of claims 2, 3, 5 and 6 will not be proffered here. Reconsideration and withdrawal of the obviousness rejection of claims 1-3 and 5-6 are respectfully requested.

CONCLUSION

The claims are deemed in condition for allowance and a notice to this effect is respectfully solicited.


The Examiner is invited to contact the undersigned attorney if a telephonic communication is believed to be helpful in advancing the examination of the present application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 11-0600.

Respectfully Submitted,

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Version with Markings to Show Changes Mad

IN THE CLAIMS:

Please amend the claims as follows:

1. (UNCHANGED) A homogeneous floor covering comprising a cross-linkable, elastomer material having a multicolored, directionless pattern, and a thickness of 1.5 to 3.5 mm, the floor covering, in the case of floor covering having widths of 1 m to 2 m, has no change in thickness exceeding + 5% over its entire width, the floor covering has a minimum elongation of 60% according to DIN 53 504, the floor covering contains 3 to 20 percent by weight, with respect to the floor covering's total weight, of a copolymer of ethylene including at least one comonomer selected from the group consisting of
 - vinyl esters of saturated carboxylic acids having up to 4 C-atoms in the acid group,
 - unsaturated mono- or dicarboxylic acids,
 - esters of unsaturated mono- or dicarboxylic acids having up to 8 C-atoms in the alcohol portion, and
 - α -olefins having 4 to 10 C-atoms,the ethylene content of the copolymer being 40 to 95 per cent by weight, the co-monomer content 5 to 60 per cent by weight, and the melt-flow index of the copolymer lying between 0.1 and 50.
2. (UNCHANGED) The floor covering according to claim 1, wherein the floor covering contains 3 to 10 per cent by weight of a copolymer.
3. (UNCHANGED) The floor covering according to claim 1, wherein a plurality of granular particles form the floor covering, the granular particles have a single color.
5. (UNCHANGED) The floor covering according to claim 1, wherein a

plurality of granular particles form the floor covering, the granular particles have a colored pattern.

6. (AMENDED) The floor covering according to claim 2, wherein ~~the a~~
plurality of granular particles forming form the floor covering, the
granular particles have a colored pattern ~~in and of themselves~~.